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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2006 JUN 22 P 2:16

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE FORMAL
COMPLAINT AND REQUEST FOR
DECLARATORY JUDGMENT OF PAC-WEST
TELECOMM, INC. AGAINST QWEST
CORPORATION.

DOCKET NO. T-03693A-05-0875
DOCKET NO. T-01051B-05-0875

PROCEDURAL ORDER

BY THE COMMISSION:

On December 6, 2005, Pac-West Telecomm, Inc. ("Pac-West") filed with the Arizona Corporation Commission ("Commission") a complaint against Qwest Corporation ("Qwest"). In that complaint, Pac-West requested an expedited procedural order or procedural conference.

On December 14, 2005, a procedural conference was held pursuant to Procedural Order issued on December 12, 2005. At the procedural conference, Qwest's counsel stipulated on behalf of Qwest that it will not disconnect Pac-West's service while the matter is before the Commission. The parties further agreed that another procedural conference should be held after the parties submitted a joint statement of stipulated facts.

On December 14, 2005, by Procedural Order, the parties were ordered to file a Joint Stipulation of Facts by January 25, 2006. A procedural conference was also scheduled for January 30, 2006.

On January 25, 2006, the parties filed a Joint Motion to Extend Time to File Joint Stipulation of Facts until further notice.

On January 26, 2006, by Procedural Order, the parties were granted an extension of time to file the Joint Stipulation of Facts.

On January 30, 2006, a procedural conference was held as scheduled. The parties agreed to continue developing a Joint Stipulation of Facts and agreed to also develop a Joint Statement of Issues.

On March 1, 2006, a procedural conference was held pursuant to Procedural Order issued on

1 January 30, 2006. Pac-West stated that it believes the matter is ready to move forward with a
2 briefing schedule and that the matter should be decided without a hearing, solely on the basis of legal
3 arguments. Qwest stated that it wished to file an amended Answer in the matter. Qwest also
4 requested additional time for discovery relating to which circuits carry Virtual NXX traffic and which
5 carry Internet Service Provider bound traffic. Qwest stated that after discovery is complete, it may
6 request an evidentiary hearing rather than proceeding solely on the basis of legal arguments made by
7 the parties.

8 On March 1, 2006, a procedural order was issued with discovery deadlines and setting a
9 procedural conference for April 20, 2006, at 10:00 a.m.

10 On March 20, 2006, Qwest filed its Amended Answer to Complaint.

11 On April 11, 2006, Pac-West filed its Motion for Leave to File First Amended Complaint for
12 Declaratory Judgment and Qwest filed its Motion to Compel Response to Data Requests.

13 On April 20, 2006, the parties filed a Joint Stipulation to postpone the procedural conference
14 scheduled for April 20, 2006, until April 27, 2006, and Pac-West filed its Response to Qwest
15 Corporation's Motion to Compel Response to Data Requests.

16 On April 27, 2006, a procedural conference took place pursuant to Procedural Order issued on
17 April 21, 2006. At the procedural conference, numerous issues were raised, including issues related
18 to VNXX; what amount of money does Pac-West believe is in controversy in this docket; and the
19 need for additional discovery.

20 On April 28, 2006, by Procedural Order, Qwest's Motion to Compel was denied, additional
21 time for discovery was granted and a procedural conference was scheduled for June 7, 2006.

22 On June 7, 2006, the procedural conference was held as scheduled. The parties indicated that
23 they would be willing to provide a proposed procedural schedule for testimony and a hearing date or
24 dates in this docket. Qwest indicated that it remained unhappy with the outcome of the discovery
25 process, and indicated that it may file another motion to compel in the event that Qwest remains
26 unsatisfied with Pac-West's answers to its discovery requests. The subject of payment of the
27 undisputed portion of billing was discussed, and Qwest indicated that it might go forward with a
28 notice and disconnection of service due to Pac-West's failure to make payments. Pac-West indicated

1 that it has been making 40 percent payments of bills due for service with regard to this matter.

2 On June 8, 2006, by Procedural Order, Pac-West and Qwest were ordered to make a joint
3 filing with a proposed procedural schedule and hearing date.

4 On June 19, 2006, Pac-West and Qwest filed a Joint Stipulation on Proposed Procedural
5 Schedule.

6 IT IS THEREFORE ORDERED that a **pre-hearing conference** shall be held on **October 24,**
7 **2006, at 10:00 a.m.,** at the Commission's offices, 1200 West Washington, Phoenix, Arizona.

8 IT IS FURTHER ORDERED that a **hearing** shall be held on **October 30, 2006, at 10:00**
9 **a.m.** at the Commission's offices, 1200 West Washington, Phoenix, Arizona. The parties shall also
10 set aside time on October 31, 2006, in the event that an additional hearing date is necessary.

11 IT IS FURTHER ORDERED that Pac-West testimony and associated exhibits shall be filed
12 on or before **August 2, 2006.**

13 IT IS FURTHER ORDERED that Qwest Responsive testimony and associated exhibits shall
14 be filed on or before **September 12, 2006.**

15 IT IS FURTHER ORDERED that Pac-West Rebuttal testimony and associated exhibits shall
16 be filed on or before **October 10, 2006.**

17 IT IS FURTHER ORDERED that all filings shall be made by 4:00 p.m. on the date the filing
18 is due, unless otherwise indicated above.

19 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to
20 pre-filed testimony shall be reduced to writing and filed no later than five days before the witness is
21 scheduled to testify.

22 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
23 regulations of the Commission, except that: any objection to discovery requests shall be made within
24 7 days¹ of receipt and responses to discovery requests shall be made within 10 days of receipt; the
25 response time may be extended by mutual agreement of the parties involved if the request requires an
26 extensive compilation effort; and no discovery requests shall be served after **July 12, 2006.**

27 _____
28 ¹ "Days" means calendar days. The date of receipt of discovery requests is not counted as a day, and requests received
after 4:00 p.m. will be considered as received the next business day.

1 IT IS FURTHER ORDERED that discovery requests, objections, and answers may be served
2 electronically.²

3 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
4 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
5 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery
6 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and
7 that the party making such a request shall forthwith contact all other parties to advise them of the
8 hearing date and shall at the hearing provide a statement confirming that the other parties were
9 contacted.³

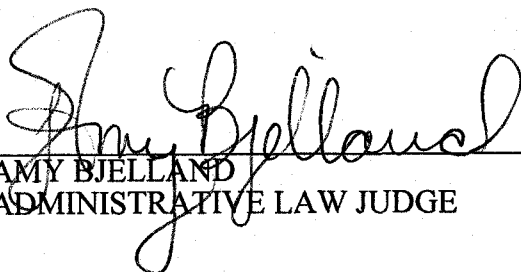
10 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are
11 not ruled upon by the Commission within 20 days of the filing date of the motion shall be deemed
12 denied.

13 IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of
14 the filing date of the motion.

15 IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date
16 of the response.

17 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
18 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

19 Dated this 22 day of June, 2006

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22 
23 AMY BJELLAND
24 ADMINISTRATIVE LAW JUDGE
25

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27 ² If requested by the receiving party, and the sending party has the technical capability, service electronically is
mandatory.

28 ³ The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations
before seeking Commission resolution of the controversy.

1 Copies of the foregoing mailed/delivered
this 22nd day of June, 2006 to:

2 Joan S. Burke
3 OSBORN MALEDON
4 2929 North Central, Ste. 2100
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Attorneys for Pac-West Telecomm, Inc.

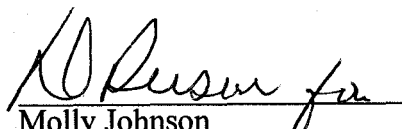
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19 By: 
20 Molly Johnson
21 Secretary to Amy Bjelland
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23
24
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28